



Boards & Commissions Guide





Warren Montgomery
District Attorney
22nd Judicial District
Washington – St. Tammany Parishes

Warren Montgomery
District Attorney

Justice Center
701 N. Columbia Street
Covington, LA 70433

Telephone: (985)809-8383
Fax: (985)809-8305

September 14, 2018

Dear Board Members and Commissioners:

I would like to take this opportunity to thank you for your service to our great Parish as a member of a board or commission. I also wish to extend a special welcome to our new board members, and trust that you will experience a sense of pride and fulfillment as a result of your civic contribution.

Each year, through the diligent efforts of Assistant District Attorney Karlin Riles, our office provides to members of boards and commissions an updated reference guide. This guide contains a broad overview of laws, rules, and procedures that may be helpful in carrying out the duties and responsibilities of the boards and commissions. I have attached a copy of the most current version with updates from the 2018 Regular Legislative Session.

As always, the Civil Division of the District Attorney's office stands ready to answer questions and to provide general legal advice regarding board matters that may arise during your tenure. The Civil Division of our office may be reached at 985-898-3427.

Again, I wish to thank each of you for your service and wish you much continued success.

Sincerely,

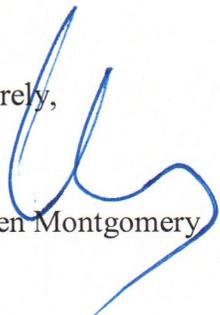

Warren Montgomery

Table of Contents

Role of Parish Government	2
Creating Mission Statements and Vision Statements	2
Bylaws	3
Meetings, Agendas, Robert’s Rules	4
Fiduciary Duty	9
Liability for Decision Making	9
Insurance	9
Marketing, Media Relations, Outreach, and Public Relations	10
Grant Writing	10
Ethics & Sexual Harassment	10
Public Records	13
Renting Facilities	17
Compensation	18
Budgets	18
Annual Financial Statements	20
Public Banking Law	20
Public Bid Law	21
Bonds	22
Ad Valorem Taxes	22
Cooperative Endeavor Agreements	23
Websites	24
Best Practices	25
Additional Resources	26

I. ROLE OF PARISH GOVERNMENT

Most boards and commissions in St. Tammany Parish are created by the Parish Council under the authority of state statutes. The Parish Council may create, destroy, combine, and redraw districts, subject to certain conditions. For most boards and commissions, the Parish Council, along with the Parish President and/or local governing authorities, has the authority to appoint and remove members¹. Boards and commissions have a duty to supply financial statements to the Parish Finance Department and generally must request the Parish Council's approval before placing a millage² on a ballot. Additionally, the 22nd JDC District Attorney makes available the Assistant District Attorneys assigned to St. Tammany Parish Government to the parish created boards and commissions and those boards and commissions located within St. Tammany Parish for the purposes of providing general legal advice.

The purpose of this guide is to provide a broad overview of the duties and responsibilities of boards and commissions and their members, and address common topics and questions that board members and commissioners may face during their terms of service. This guide is meant to be a starting point, and board members and commissioners are encouraged to consult with the more detailed guides referenced herein, in addition to consulting their counsel and other professionals for guidance on specific issues facing their districts. ***This guide is accurate as of the time the writing, but laws change frequently*** and should always be checked for changes prior to relying on this information. Please use the footnotes provided throughout this guide to find more information and to check that all laws cited in this guide are up to date.

II. CREATING MISSION STATEMENTS AND VISION STATEMENTS

Boards should have both a mission statement and a vision statement. A mission statement should reflect the board's purpose, should outline short term goals, and should be reviewed

¹ St. Tammany Parish Council Ordinance C.S. No. 00-0157

² A mill is the calculation used in defining the amount of an ad valorem tax. A mill is defined as "a monetary unit used only in calculations, worth one thousandth of a dollar". One mill is equivalent to \$0.001. Ad valorem tax in dollar terms may be calculated by multiplying the assessed value of a property by the mill rate and dividing by one thousand.

annually. A vision statement should outline long term goals and reflect what the organization will be in the future.

III. BYLAWS

Every board should have a unique set of bylaws, which should serve as a guide for all board actions. Bylaws should include topics such as conflicts, codes of conduct, expectations, attendance, nepotism, media relations/PR, financial policies regarding investments, risk management, audits, signing of checks, safeguards, requesting checks, invoices, travel reimbursements, reimbursement policies, and credit card policies.

Boards should have written descriptions of all roles within the organization, including the board or district's director, board members, and staff members. It is particularly important for boards or districts that may have both a board and staff members to outline the differing roles; or for example in the case of a fire district, the role of a board versus the role of that district's Chief.

The role of a board is to act in a legislative capacity, performing such functions as creating policy, approving budgets, levying taxes, and nominating officers. This differs from the role of, for example, a Fire Chief who carries out the board's policies, performing such functions as creating a budget for approval, creating schedules, and hiring, firing, and training employees. This relationship is similar to the relationship of the Parish Council and the Parish President, in that the council makes laws and policies and the president carries out those laws and acts as an administrator of parish government.

Another important topic that boards should include in bylaws or written policies is a succession plan. This plan should outline the process of transitioning old members out and transitioning in new members. It should include specific knowledge and skills for different positions, as necessary, and should create policies for training new members and transitioning materials from old members to new members.

Bylaws should be designed to prevent and resolve conflict and protect the organization. They should be a resource for any questions a board member may have. Bylaws should be reviewed annually and amended as necessary. You may adopt bylaws at your public meeting, and amend them at any public meeting.

Boards and districts that have employees should have written personnel policies. These policies should include, depending on the size of the organization and the number of employees,

attendance policies, uniform policies, leave policies, travel policies, and ethics training requirements. Some of these topics will be addressed in greater detail throughout this guide.

Boards, commissions, and districts should include in their bylaws or policies procedures for preventing theft, fraud, abuse, and mistakes, including segregating duties, properly overseeing employees, directors, and board members, and frequent reviews of financial documents and assets of the board or district.

Boards are responsible for creating and maintaining their own bylaws, and for both keeping a copy of those bylaws for the current board, and ensuring that all new board members receive a copy of the board's bylaws at the beginning of their term. The State, Parish, and District Attorney's office do not keep track of board bylaws or personnel policies, and the responsibility for maintaining these policies is solely that of the boards and districts.

IV. MEETINGS, AGENDAS, AND ROBERT'S RULES OF ORDER

Establishing policies for meetings keeps meetings running smoothly and prevents Open Meetings Law violations. The following section outlines the basics of meetings, including the Open Meetings Law, quorums³, minutes⁴, and Robert's Rules of Order.

Robert's Rules of Order

Most organizations use some form of Robert's Rules of Order to set rules and guidelines for running meetings. Robert's Rules are a good starting point when creating parliamentary policies for your board. Your board may wish to obtain a copy of Robert's Rules to bring to board meetings as a reference. Please be aware that different editions of the rules may contain different procedural guidelines.

Open Meetings Law

St. Tammany Parish boards, districts, and commissions are subject to the Open Meetings Law.⁵ The Open Meetings Law governs the public's right to observe meetings, notice

³ The minimum number of members of an assembly that must be present at any of its meetings to make the proceedings of that meeting valid. You should define the board's quorum in your bylaws.

⁴ A summarized record of the proceedings at a meeting.

⁵ Please see the Louisiana Attorney General's Guide at the following link:
<https://www.ag.state.la.us/Article.aspx?articleID=21&catID=10>

requirements, conduct of meetings, voting methods, executive sessions, recordings, and minutes. Please review the Open Meetings Law requirements frequently as rules may change. Boards should post a copy of the Open Meetings Law at the location where it holds its meetings.

Open Meetings Law Notice and Publication Requirements⁶

The Open Meetings Law governs notice and publication requirements for all public bodies. All public bodies must give written public notice of any public meeting, which is defined as a quorum of the public body meeting to conduct official business.⁷ If a regular meeting is established by law, ordinance, or resolution, written public notice of said regularly scheduled meetings should be given at the beginning of each calendar year. Written notice, which should include the date, time, and place and the agenda of each individual meeting, regardless of whether or not an annual notice is published, must be posted at the place of the meeting or at the official office of the body no less than twenty-four hours before any meeting, exclusive of Saturdays, Sundays, and legal holidays.⁸ If a board, commission or district has a website, a copy of the notice and agenda must also be placed on the website no less than twenty-four hours before any meeting, exclusive of Saturdays, Sundays, and legal holidays.⁹

This means that a board with a website holding a public meeting at 9:00 a.m. on Monday must post and place on their website notice of the date, time, place and agenda of said meeting no later than the proceeding Friday at 9:00 a.m. It is a good practice to include at the top of the notice the date and time of the posting of the meeting notice.

Agendas

Agendas should provide the public with sufficient notice of what subjects will be discussed at the meeting, and should be included with meeting notices. If a board intends to go into executive session, which is explained in more detail below, that intent must be clearly indicated on the agenda. Agendas may not be amended within twenty-four hours of a meeting,

⁶ Please see the LLA's Guide to Open Meetings

[https://app.lla.state.la.us/llala.nsf/BAADB2991272084786257AB8006EE827/\\$FILE/Open%20Meetings%20Law%20FAQ.pdf](https://app.lla.state.la.us/llala.nsf/BAADB2991272084786257AB8006EE827/$FILE/Open%20Meetings%20Law%20FAQ.pdf)

⁷ LSA R.S. 42:13

⁸ LSA R.S. 42:19

⁹ [https://app.lla.state.la.us/llala.nsf/372058C376F63B4286257F7700789FC6/\\$FILE/Website%20Postings.pdf](https://app.lla.state.la.us/llala.nsf/372058C376F63B4286257F7700789FC6/$FILE/Website%20Postings.pdf)

and at a meeting no item may be added to an agenda except by a unanimous vote of the members present at a meeting. A description of the off the floor agenda item and the reason for hearing the item must be included in the minutes of the meeting. Items may be removed or postponed by a majority vote of the members present, unless otherwise provided for in a board's bylaws.

Committees

Any committee meeting with a degree of regularity or formality and/or making official or formal recommendations to the entire board or commission, which is made up in whole or part by board members or commissioners, or any committee which is the final decision maker on a topic which is under the purview of the board or commission, must comply with all Open Meetings Law requirements.¹⁰

Executive Session

Boards may only enter into executive sessions for a limited number of circumstances which are set out by law¹¹. These include but are not limited to discussing the character, health, or competence of a person; litigation; collective bargaining; security plans; investigations of misconduct; certain civil service board actions¹²; and certain extraordinary emergency circumstances which must be related to true natural disasters or acts of invasion or insurrection. No voting or vote polling may take place in an executive session, and two-thirds vote of the members present is required to enter into an executive session.

Minutes and Recordings

All public bodies are required to keep written minutes of their open meetings.¹³ The minutes must include the date, time and place of the meeting; the members present and absent; the substance of all matters decided and of votes taken; and any other information that a board member requests be reflected in the minutes. Minutes are not required to be verbatim transcripts¹⁴ and may instead be a summary of the meeting, sufficient to allow someone not present to understand what

¹⁰ La. Atty. Gen. Op. No. 17-0026, 09-0197 & 00-70

¹¹ LSA R.S. 42:16, 42:17, 42:18 and 42.19

¹² LSA R.S. 33:2492 and 33:2552

¹³ LSA R.S. 42:20

¹⁴ La. Atty. Gen. Op. No. 94-376

actions were taken at the meeting. Minutes are public records and must be maintained as such. If a public body has a website, the minutes of that public body's meetings must be placed online either within ten days after the publication of the minutes in the body's official journal, or within a "reasonable time" of the meeting if no such publication is required.¹⁵

Public bodies, with a few very narrow exceptions, must allow members of the public to record public meetings, either by video, audio, or live streaming.¹⁶ If such recording is allowed, boards are required to establish rules relative to the recording in order to insure proper decorum at public meetings. Additionally, **any non-elected board or commission that has the authority to levy a tax shall audio, video, or broadcast all public meetings.**

Voting

Members must vote viva voce, meaning that members must either vote "with a live voice" or by an electronic machine which displays a members vote.¹⁷ The main purpose of this requirement is that members of the public have to opportunity to observe how board members have voted. No secret ballots are allowed, and members must be physically present to vote (meaning voting by email, telephone, or proxy is not allowed).

Boards, particularly fire boards, should also be mindful of whether or not the board chair should or should not vote in certain situations. For fire districts in particular, generally a chair only votes to break a tie or to obtain the necessary two-third votes. However, boards should be aware that a chair must be counted when calculating both a quorum and the number of votes required for a motion to pass. If for example, a five member board is voting on a motion which requires a two-thirds vote of the body, then a vote of three yays, one nay, and the chair abstaining does not result in a passion motion, as two-thirds of 5 is 3.33. As it is not possible for one-third of a person to vote, four votes are required, which may require the chair to vote. All boards, but particularly boards with a sometimes non-voting chair, should pay special attention to the number of votes required for each and every item on their agendas.

¹⁵ LSA R.S. 42:20

¹⁶ LSA R.S. 42:23

¹⁷ LSA R.S.42:14; Op .Atty. Gen. No. 80-2 and 11-0070

Walking Quorums and Other Violations

Please be aware that if a quorum of members of a board convenes in any manner other than at a properly held and noticed open meeting (aside from chance meetings or gatherings at parties where no business is discussed) and discusses public business, that is a violation of the Open Meetings Law. This can include both traditional meetings, as well as group emails, group text messages, and a “walking quorum”¹⁸ wherein a quorum is never present at one time, but members walk in and out so as to effectively circumvent the Open Meetings Law.

Please also be aware that **texting at public meetings may be a violation of the Open Meetings Law** when those text messages involve agenda items or items up for discussing at the open meeting. **It is strongly advised that you put your phone away during meetings and do not text while a meeting is in progress.** Even if you are not texting another member or a member of the audience, you may give the appearance of a violation to an audience member who may allege violations or make a Public Records Request for the text messages sent during a meeting.¹⁹ Citizens have made such public records requests in the past. Public records requests will be discussed later in this guide.

The Attorney General and the various District Attorneys are charged with enforcing Open Meetings Law violations²⁰. Additionally, any member of the public who believes that his or her rights have been violated may institute civil enforcement proceedings, which include filing a writ of mandamus, requesting injunctive relief, or requesting the voiding of any action taken in violation of the Open Meetings Laws, in addition to requesting civil penalties and attorney fees.²¹

¹⁸ A series of meetings, phone calls, or other means of communication of groups of less than a quorum, where the body effectively arrives at a consensus or understanding.

¹⁹ The Attorney General has addressed this issue in Attorney General Opinion No. 14-0163, which is available at <https://www.ag.state.la.us/Opinions.aspx>

²⁰ LSA R.S. 42:25

²¹ LSA R.S. 42:25, 42:26, and 42:28

V. FIDUCIARY DUTY

Board members are fiduciaries²² to their organizations. A fiduciary duty is defined as a heightened responsibility wherein a fiduciary is obligated to act strictly in the interest of the organization, not thinking of himself while making decisions for that organization. Every member of a board, district, or commission in St. Tammany Parish has a fiduciary duty to the organization he or she represents. Board members have a responsibility to oversee the internal controls of the organization and to “set the tone at the top” for the organization.

VI. LIABILITY FOR DECISION MAKING

Board and commission members are not personally liable for decisions they make as a board or commission member so long as that decision is made within the scope of their authority. Regardless, boards and districts are encouraged to purchase errors and omissions insurance to provide coverage for members in case of a lawsuit. Additionally, boards should consult their insurance carrier regarding coverage for negligent or criminal acts of employees and board members.

VII. INSURANCE

The nature of the board or commission will determine the types of insurance necessary for the board or commission. Depending on the size, function, and budget of each board and district, boards should consider general liability, automotive, errors and omissions, directors and officers, sexual assault and harassment, fidelity bonds, and property insurance for board members, volunteers, coaches, employees, directors and property owned by the board or district. Boards and commissions should contact an insurance agent to determine the types of insurance most appropriate for their specific entity, and should review coverage annually to ensure that the

²² A person to whom property or power is entrusted for the benefit of another. A fiduciary duty creates a heightened duty of care.

board and district are properly insured and protected. All public entities should have “good and sufficient” coverage which considers risks and potential impact on the entity.

VIII. MARKETING, MEDIA RELATIONS, OUTREACH, AND PUBLIC RELATIONS

Boards and commissions should be aware of the various marketing, outreach and public relations opportunities that exist to help make the public aware of the services the board provides and any activities or projects the board wishes to advertise to the public. These can include issuing flyers to schools, creating email lists to keep the public up to date on the district’s activities, creating a website and profiles on social media sites like Facebook, Twitter, and Instagram, and contacting reporters and issuing press releases.

Board members should be aware that all marketing must be in furtherance of a public purpose, ***and boards should never expend public money to take a position on an election.*** While providing information on the dates of elections and distributing purely factual information is permissible, ***it is a violation of state law to use public funds to urge any election to vote for or against any candidate or proposition.***²³

IX. GRANT WRITING

Boards and commissions should be aware that various grants may be available depending of the type of organization the board represents. Boards may wish to consult www.grants.gov or the Louisiana Division of Administration to locate available grants for their organization.

X. ETHICS AND SEXUAL HARASSMENT

Public officials²⁴ and public employees²⁵, including members of boards, districts, and commissions in St. Tammany Parish, are governed by Louisiana ethics laws.²⁶

²³ LSA-R.S. 18:1465

²⁴ An elected or appointed office holder.

²⁵ Someone who works for the government, other than an elected or appointed office holder.

²⁶ A summary of the Ethics Code, as well as additional ethics information, can be found at <http://ethics.la.gov/>

Public officials and public employees are prohibited from receiving anything of economic value for the performance or nonperformance of their official duties and responsibilities or the performance or nonperformance of a service substantially related to public duties or which draws on non-public information. Additionally, public officials and employees may not receive anything of economic value from the following sources:

- Someone who has or is seeking to obtain a contractual or financial relationship with your agency,
- Someone regulated by your agency, or
- Someone whose economic interest may be substantially impacted by the performance or nonperformance of your duties.

This prohibition also applies to a business that you own or a business in which you hold more than a 25% interest. Exceptions to this prohibition are promotional items of no economic value and food and drink with a value of up to \$61²⁷ consumed in the presence of the giver.

Additionally, appointed members of a public body must recuse themselves if debating or discussing a transaction in which any of the following may have a substantial interest:

- You;
- Your immediately family, defined as spouse, children, children in law, siblings, siblings in law, parents, and parents in law;
- A business you or your family (as defined above) own or in which you hold an interest greater than the general class or in which you are an officer, director, trustee, partner, or employee;
- Anyone with whom you are negotiating perspective employment;
- Anyone who owes you money.

Finally, business you or your family (as defined above) own or in which you hold an interest greater than 25% may not submit a bid or enter into a contract with your agency. The 25% calculation includes both your shares and the shares of businesses or family members (as defined above) combined.

Reporting

Public officials are required to file a Personal Financial Disclosure annually, due no later than May 15th of each year, for the office or position held and the activity that occurred in the prior year. Reporting requirements depend on the “Tier”²⁸ a public official falls into.

²⁷ 2018 value. This value may change. Please consult with the Ethics Administration for the most up to date value.

²⁸ These Tiers may change. Please consult with the Ethics Administration for the most up to date Tiers.

In addition to the annual financial disclosures, a new disclosure form for 2018 is required for any complimentary lodging, transportation, admissions or reimbursement received by a public servant.²⁹

Should you have any questions or concerns about the reporting requirement or any other ethics concern, please contact the Louisiana Ethics Administration at (225) 219-5600 or visit their website at www.ethics.la.gov.

Nepotism

Members of a board member's immediate family³⁰, as described above or as defined in the most recent version of the Ethics Code, may not be employed by the board or their agency, even if you do not have hiring authority for that position. There is an exception for volunteer, unpaid firefighters.

Post-Employment

You may not contract with or be employed by the board or agency on which you served for two years after the completion of your service.

Policies and Training

All members of St. Tammany Parish boards, commissions, and districts must complete one hour of ethics training per year. New members must complete this training within 90 days of taking office. The training may be found at www.ethics.la.gov.

In addition to ethics training, sexual harassment training is required annually for all board members and employees. At the time of this publication the state does not provide free sexual harassment training. Boards may purchase a training video from the state, or may wish to contact the board's insurance provider, as some insurance companies provide sexual harassment training to their insureds.

Boards and districts must also have their own ethics and sexual harassment policies. Requirements for sexual harassment can be found in the new Revised Statutes 42:341 through 42:345 and require at a minimum a "clear statement that unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature constitutes sexual harassment when the conduct explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment shall not be tolerated"³¹ and a description of the behavior the agency defines as inappropriate, including examples, and an "effective complaint or grievance process". All board members and directors

²⁹ <http://ethics.la.gov/Pub/CampFinan/Forms/Form413s.pdf>

³⁰ Spouse, children, children in law, siblings, siblings in law, parents, and parents in law

³¹ LSA R.S. 42:341 through 345

should review the new Act 270 of the 2018 Regular Session to ensure compliance with the new law.

Boards and commissions should provide both the state ethics policy and the board ethics policy to all board or commission members, as well as Executive Directors and staff members. Annually, all board members or commissioners, employees, and directors should sign receipt and acknowledgements for both the board ethics policy and sexual harassment training, in addition to the state provided ethics training form. The board and/or district and the person receiving the training should both keep a copy of all of these acknowledgements and be ready to provide these forms to an auditor.

XI. PUBLIC RECORDS

Louisiana Public Records Law can be found in LSA-R.S. 44:1, *et seq.*,³². Members of St. Tammany Parish boards, commissions, and districts are subject to the Public Records Law and Public Records Requests.

Public records are defined as any documentary materials regardless of physical form and characteristics, including but not limited to:

- Books
- Records
- Writings
- Accounts
- Letters
- Emails
- Maps
- Drawings
- Photographs
- Cards
- Tapes

³² A summary of the Public Records law and additional resources may be found at [http://app.lla.state.la.us/llala.nsf/7C469838E7BC1C5186257AC2004F6279/\\$FILE/Public%20Records%20Law%20FAQ.pdf](http://app.lla.state.la.us/llala.nsf/7C469838E7BC1C5186257AC2004F6279/$FILE/Public%20Records%20Law%20FAQ.pdf), www.sos.la.gov or <https://www.lla.la.gov>

- Recordings
- Memos
- Papers
- Electronic documents

concerning the conduct, transaction, or performance of business, transactions, work, duties, functions conducted or performed:

- Under the authority of the constitutions or laws of the state;
- By or under the authority of any ordinance, regulation, mandate or order of any public body;
- Concerning payments made or received by or under the authority of the constitution or laws of the state.

A Public Records Request begins when a citizen submits a request to the “custodian”³³ of a public record. Anyone over the age of 18 may submit a public records request. Public entities may not inquire as to the reason for the request, and there is no limit to the length or number of requests a person may make.

Each board should have a designated custodian of public records and should develop a procedure for responding to and producing³⁴ requests. Custodians are generally the head of the public body in possession of the public record. Boards and districts should place a notice on the board or district website, if one exists, designating the custodian and contact information for public records requests. Requests should be made in person during business hours, by letter, or by email to the custodian. Custodians have an obligation to reasonably segregate privileged and private information from public records so that such records are available for speedy production. The board may wish to supply a form³⁵ for requests and make it available by hard copy and online. If a record is immediately available, the custodian should make it available for

³³ The public official or head of any public body having custody or control of a public record, or a representative specifically authorized by him to respond to requests to inspect any such public records.

³⁴ Records that are produced are provided to the requestor either as hard copies or in electronic form.

³⁵ <https://www.ag.state.la.us/Article/20>

inspection³⁶ at the time of the request. Otherwise, the custodian should provide the record or make arrangements for production within 3 business days. Custodians may not charge for inspection of records. Custodians may charge a nominal fee for copies if copies are requested, or for a jump drive, disk, or hard drive if the requested documents are produced in electronic form³⁷. Custodians may not charge for man hours used to produce those records. You should produce documents in the form requested to the extent that it is possible, but you are not obligated to change the form of a document to suit a request.

As an example, if Citizen A requests to inspect Record 1, which is immediately available in paper form, the custodians should provide a space to inspect Record 1 during business hours at his earliest convenience. Custodians may not charge for this inspection.

If Citizen B requests that a custodian produce Record 2, which is in paper form, the custodian may make copies of that record and charge per copy. The custodian should produce this within three days if reasonably possible, but a response must be provided within three days detailing the records possessed and the time that will take to produce them if you do not produce them within three days. If B requests Record 2 in electronic form, these documents may be copied onto a disk and B can be charged for the disk, but because the original document is in paper form, you are not obligated to create an electronic form, particularly if it would be unreasonably burdensome to do so. The same applies for the reverse situation, if a person requests the paper form of a document only available in electronic form. While this is the current law, custodians should watch this issue closely, as courts and the Attorney General are likely to be requiring that all documents be produced in electronic form in the future. Remember to use best judgment here and act with reason. If a request will take longer than 3 business days, the custodian should advise the requestor of the circumstances of the production and produce these documents as soon as possible.

If the custodian does not have possession of a requested record, that custodian should certify that he or she do not have possession of that record and advise the requestor of who has

³⁶ Records that are provided for inspection are not handed over to the requestor. Rather, the requestor is given the opportunity to view the requested records at the place where they are stored or maintained.

³⁷ Records produced in electronic form may be produced via jump drive, cd, or by electronic transmittal.

the record.³⁸ If a record does not exist, *do not create a public record*. For example, if a requestor asks for a certain list, and no such list exists, a custodian is not required to create a list in response to a Public Records Request. The custodian should simply respond to the request that no such record exists. However, if the list does not exist but can easily be compiled using a software or a computer programs (for example, a database which would make it possible to “create” a list “at the touch of a button”), that list should be provided.

While a public records request must be a request for documents, and not a list of questions, if the custodian is reasonably able to ascertain that certain documents would provide answers to a list of questions submitted, those documents should be offered to the requestor. Please also note that sometimes requestors include in their request a list of questions which custodians are required by law to answer.

Custodians should not be unreasonable when responding to a request. If a request is unclear, the custodian should work with the requestor to ascertain the record for which they are searching.

Custodians may not charge for the inspection of a document, but may charge for the actual cost of copies or productions. St. Tammany Parish Government currently charges \$15.00 per disk, \$0.50 per black and white copy, and \$1.00 per color copy. Custodians should not charge for a request before confirming with the requestor the cost of the production of the request.

If a request is made for a board member, commissioner, or employee’s *private email address or text messages*, **the individual is the custodian**. An organization cannot have control of a member’s personal, private email account or cell phone, and therefore cannot certify that all records have been produced, and is not the custodian of these accounts. It will be the individual’s responsibility to respond to such requests, and individuals should use caution when using personal emails or cell phones to conduct board business.

Custodians are obligated to preserve and retain public records, generally for a period of three years. Organizations should develop a Records Retention Schedule with the State Archives

³⁸ LSA R.S. 44:34

division.³⁹ **Custodians may be held personally liable for intentionally destroying or withholding public records.** In addition to developing a Records Retention Schedule, custodians should notify the Secretary of State's Archives Division of any planned destructions, unintended destructions, and any other actual or threatened destruction or removal of public records.

There are many exceptions within the Public Records law which exempt some public records from production.⁴⁰ However, it is up to the person in custody of the public record to prove that it falls under one of the exceptions, which means that, particularly when using public email addresses, computer equipment, etc., individuals have a diminished expectation of privacy. Just because a record may ultimately not be produced, it may still be viewed by attorneys and court staff should litigation result from a request.

If a requestor becomes unreasonable or assistance is needed with a Public Records Request, you should contact an attorney. If a requestor of a public record is denied his right to view such public record, or if he feels the production is incomplete, he has the right to sue for damages, court costs, and attorney's fees.

You are ***strongly advised to review all of the resources on Public Records Request on the Secretary of State's, Attorney General's, and Legislative Auditor's websites*** both now and when you are handling public records requests. Please also be aware of court decisions, Attorney General Opinions, and changes to the Public Records Law that may impact the Public Records Law as it currently stands.

The bottom line of this law is **any communications related to your public position which are not purely private are more than likely public records.**

XII. RENTING FACILITIES

Many districts own facilities which members of the public may wish to rent for a variety of reasons, including community meetings, family reunions, parties and showers, and organizational meetings. Boards and commissions should be aware that there are restrictions on

³⁹ <https://www.sos.la.gov/HistoricalResources/ManagingRecords/Pages/default.aspx>

⁴⁰ Please see LSA-R.S. 44:1, et seq.

how these facilities may be used. Facilities may not be used free of charge when the use is by a private group only for the benefit of a private group, such as a membership meeting, a meeting for which invitations are extended to only members of a certain organization, or a birthday party. A private group may use the facilities without charge if the meeting is open to the public and is only for the purpose of facilitating information. Additionally, a group may use a facility free of charge to hold a candidate forum which is open to the public, but may not endorse a candidate or a party. When a fee must be charged, that fee must reasonably reflect the value of the space.

XIII. COMPENSATION

As a general rule, board members cannot be compensated unless set out by statute. Boards should consult the statute that authorized the creation of such board to determine whether or not board members are eligible for per diems, travel reimbursement, or other compensation. Board members have the right to waive statutorily approved compensation.

Additionally, boards should ensure that any compensation provided to board members or employees does not violate the prohibition against the donation of public funds.⁴¹ This includes the payment of severance pay⁴² or unearned sick or annual leave and payment for hours not actually worked by an employee or board member. The use of public funds to buy gifts, including retirement gifts, is prohibited.⁴³

XIV. BUDGETS

All boards, commissions, and districts are subject to the Louisiana Local Government Budget Act⁴⁴ and must approve a comprehensive budget presenting a complete financial plan each fiscal year for the general fund and each specific revenue fund.⁴⁵ The budget should contain the following:

⁴¹ Article 7, Section 14(A) of the Louisiana Constitution.

⁴² La. Atty. Gen. Op. No. 00-123.

⁴³ La. Atty. Gen. Op. No. 00-39

⁴⁴ LSA-R.S. 39:1301 et seq.

⁴⁵ [https://app.la.state.la.us/llala.nsf/5F8831F042DF874186257AB8006E7A0B/\\$FILE/LGBA%20FAQ.pdf](https://app.la.state.la.us/llala.nsf/5F8831F042DF874186257AB8006E7A0B/$FILE/LGBA%20FAQ.pdf)

- Estimated beginning balance;
- Estimated revenues;
- Itemized revenues by source;
- Recommended expenditures, itemized by department, function, and character;
- Other funding sources;
- Estimated ending balance;
- Side by side comparison of current year and budgeted year, with year to date percentage change.⁴⁶

Your budget must be completed and submitted to the governmental authority of your political subdivision no later than 15 days prior to the beginning of the new fiscal year, and must be accompanied by an adopting instrument.

Entities with a budget over \$500,000.00⁴⁷ must give notice that the budget is available for inspection fifteen days prior to the beginning of the new fiscal year. This notice should be made via publication in the official journal of the public hearing during which the budget will be discussed and should be given at least 10 days prior to said hearing. Boards must have at least one public budget hearing and must certify the completion of the budget by publication in the official journal. A certified copy of the final budget should be given to the CAO or CEO of the board, commission or district and retained.

The budget of a board, commission, or district must be balanced. Boards must amend their budgets if revenues fail to meet expenditures by 5% or more, if expenses exceed budget by 5%⁴⁸ or more, if there has been a change in operation, or if there has been an increase, decrease, addition, or deletion in the budget. In addition to reviewing Annual Financial Statements

⁴⁶ Please consult

[https://app.lla.state.la.us/llala.nsf/5F8831F042DF874186257AB8006E7A0B/\\$FILE/LGBA%20FAQ.pdf](https://app.lla.state.la.us/llala.nsf/5F8831F042DF874186257AB8006E7A0B/$FILE/LGBA%20FAQ.pdf) for most up to date resources and requirements for your budget

⁴⁷ Please consult

[https://app.lla.state.la.us/llala.nsf/5F8831F042DF874186257AB8006E7A0B/\\$FILE/LGBA%20FAQ.pdf](https://app.lla.state.la.us/llala.nsf/5F8831F042DF874186257AB8006E7A0B/$FILE/LGBA%20FAQ.pdf) for most up to date resources and requirements for your budget

⁴⁸ Please consult

[https://app.lla.state.la.us/llala.nsf/5F8831F042DF874186257AB8006E7A0B/\\$FILE/LGBA%20FAQ.pdf](https://app.lla.state.la.us/llala.nsf/5F8831F042DF874186257AB8006E7A0B/$FILE/LGBA%20FAQ.pdf) for most up to date resources and requirements for your budget

(discussed below), board members should review financial statements prepared by Executive Directors or similar positions on a monthly or quarterly basis.

XV. ANNUAL FINANCIAL STATEMENTS

All public entities are required to submit annual financial statements or audits to the Louisiana Legislative Auditor⁴⁹. The type of audit or statement depends largely on the amount of revenue of the public entity. In addition to general state requirements, St. Tammany Parish governmental bodies are required to adhere to additional, stricter requirements. The Legislative Auditor is still defining those additional requirements, which may change from year to year. Please consult with your financial professional regarding these financial statements.

Additionally, new laws were passed in the 2015 legislative session requiring that virtually all entities submit a schedule of compensation, benefits and other payments to its agency head or chief executive officer, and instituting a “three strikes” law for repeated findings when an agency fails for three consecutive years to resolve findings without good cause.⁵⁰

Additionally, most boards and commissions are required to submit annual financial statements to the parish.

XVI. PUBLIC BANKING LAW

Public entities should use a bank domiciled⁵¹ in or having a branch office in the parish, municipality, or congressional district where your board or district is located, and must use an approved fiscal agent.⁵² Any deposit over the FDIC insured amount must be collateralized.

⁴⁹ LSA-R.S. 24:513(J) outlines what report an entity is required to file.

⁵⁰ Act 462 of the 2015 Legislative Session

⁵¹ The registered domicile or principal place of business of a company.

⁵² <https://www.treasury.state.la.us/> and <https://sparkwebtest.treasury.state.la.us/wp-content/uploads/State-Fiscal-Agents-Rev-10-20-16.pdf>

Funds should be deposited daily. All funds should be placed in interest bearing accounts. Boards should develop a written investment strategy.

La. R.S. 33:2955 outlines permissible investments by political subdivisions. Please review 33:2955 before making an investment. Boards may invest in savings and loan associations as long as any amount over the FDIC insured amount is collateralized.⁵³ Additionally, money may be invested with Louisiana Asset Management Pool (LAMP), a pool investment fund for local officials. More information can be found at www.lamppool.com.

Boards should issue Requests for Proposals (RFPs)⁵⁴ for contracts with financial institutions for their services. There is no limit on the length of contracts, but the Legislative Auditor suggests that contracts be of a short duration, ideally between one and three years. Thirty days before the current contract expires, boards should give notice to all eligible banks that you intend to select a bank as a fiscal agent⁵⁵. This notice should include the term and conditions, invite bids, and must be published at least three times in the official journal, with the first notice being at least 15 days prior to selection. You may make supplemental contracts with multiple banks, but may only contract with banks on the approved fiscal agent list provided by the state.⁵⁶

XVII. PUBLIC BID LAW

Generally, all public entities must follow public bid law for contracts related to public works and materials and supplies. “Public works” includes both labor and materials. The Public Bid Law applies to contracts and purchases exceeding a certain monetary value.⁵⁷ Although it is

⁵³ [https://app.la.state.la.us/llala.nsf/4420D4596B4CCE8086257AB50074DC9A/\\$FILE/Banking%20Law%20FAQ.pdf](https://app.la.state.la.us/llala.nsf/4420D4596B4CCE8086257AB50074DC9A/$FILE/Banking%20Law%20FAQ.pdf)

⁵⁴ A type of bidding solicitation in which an organization announces that funding is available for a particular project or proposal and companies can place bids for the project’s completion.

⁵⁵ An organization, such as a bank or trust company, that acts on behalf of another party performing various financial duties.

⁵⁶ Please see the list of approved fiscal agents provided in additional resources.

<https://sparkwebtest.treasury.state.la.us/wp-content/uploads/State-Fiscal-Agents-Rev-10-20-16.pdf>

⁵⁷ Please see [https://lla.la.gov/documents/clge/\(09-27](https://lla.la.gov/documents/clge/(09-27)

[17\)%20Course%20107%20Part%20I%20&%20II%20\(Handout\).pdf](17)%20Course%20107%20Part%20I%20&%20II%20(Handout).pdf) and <https://lla.la.gov/legal-faqs/public-purchasing/> and

[https://app.la.state.la.us/llala.nsf/87BD5C74CB17E03686257AB8006F37DE/\\$FILE/Public%20Bid%20Law%20FAQ.pdf](https://app.la.state.la.us/llala.nsf/87BD5C74CB17E03686257AB8006F37DE/$FILE/Public%20Bid%20Law%20FAQ.pdf)

sometimes not required that a public entity solicit bids for a service, it is a good practice to solicit bids or Requests for Proposals for all expenditures of public money whenever practical.

Additionally, please be aware of disaster related procurement rules. The Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) provides resources specifically related to FEMA grants and other emergency procurement issues.⁵⁸

XVIII. BONDS AND THE STATE BOND COMMISSION

Boards, commissions, and districts must be given specific statutory authority to issue bonds. The statutory authority governs the issuing of bonds, incurring of debt, and collecting of taxes for statutorily created boards. If a board is created by the Parish Council, rather than by statute, that board must be granted authority by the Parish Council to issue a bond.⁵⁹ Boards should ensure that proceeds from bonds are spent according to the proces verbal, and that revenue collected to service a debt is no longer collected once the debt is repaid.

The State Bond Commission must approve all bonds and any debt which will be owed for more than 90 days before they may be issued by any local government entity in the state. This includes not only bonds, but also certain leases and other situations which would create a debt for the entity. This is an important consideration when leasing land or equipment or entering into certain Cooperative Endeavor Agreements, and a "non-appropriations clause" may be necessary in certain agreements to avoid the necessity of State Bond Commission approval.

Please consult a financial advisor, bond attorney and or other subject matter expert for more information on bonds and the State Bond Commission.

XIX. AD VALOREM TAXES

What is a Mill?

⁵⁸ <http://gohsep.la.gov/RESOURCES/OVERVIEW/PUBLICATIONS>

⁵⁹ Please see <https://www.treasury.state.la.us/state-bond-commission/>

A mill is the calculation used in defining the amount of an ad valorem tax. A mill is defined as “a monetary unit used only in calculations, worth one thousandth of a dollar”. One mill is equivalent to \$0.001. Ad valorem tax in dollar terms may be calculated by multiplying the assessed value of a property by the mill rate and dividing by one thousand. The dollar value equivalent of one mill on a property valued at \$100,000.00 would be \$100.00.

Setting and Renewing Ad Valorem Taxes

Each year taxing bodies must address the ad valorem property taxes they have levied or wish to levy. A body may choose to roll an existing tax forward, to roll it back, or to remain at the current rate. Bodies may also choose to propose a new tax or to “renew” an expiring tax (which for practical purposes, is the same as proposing a new tax). The voters must approve any new tax or the renewal of an expiring tax. In most cases, the Parish Council must grant a board approval to place a proposed tax on the ballot. There are different processes for each action, including advertising requirements and holding meetings and hearings. These processes and requirements may change each year. The Assessor provides a grand recap⁶⁰, which includes a summary of the current millages⁶¹ and tax collected in the parish and serves as a guide to taxing bodies when making decisions regarding the levying of ad valorem taxes.

Law regarding ad valorem taxes changes almost yearly and it is very important to consult the Louisiana Legislative Auditor’s website and the St. Tammany Parish Assessor every single year concerning ad valorem taxes. ***Never use old forms***; always print new forms from the Legislative Auditor’s website.⁶² ***Please be particularly mindful of law changes, which take effect August 1 of each year.*** If a board or district has not completed your annual ad valorem tax requirements by this date, please make sure all steps you have taken comply with any new laws. Please visit <https://lla.la.gov/legal-faqs/assessors-millages/> before beginning the ad valorem tax process, and again on August 1, to review all requirements and download new forms. It is a good practice to review the Millage Book the Legislative Auditor provides every year, and to send at least one representative to the annual millage training provided by the Legislative Auditor each and every year. It is also a good practice to use the book as a checklist at every stage of the

⁶⁰ A summary provided by the assessor outlining issues concerning ad valorem taxes, such as number of households, amounts of millages, number of exceptions, and taxes collected.

⁶¹ See footnote 1.

⁶² <https://lla.la.gov/legal-faqs/assessors-millages/>

process to reduce the possibility of mistakes. Finally, the earlier boards begin the millage process, the more time there is to correct any mistakes.

XX. COOPERATIVE ENDEAVOR AGREEMENTS

Public entities may not loan, pledge, or donate property unless provided for in the constitution.⁶³ However, public entities may:

- Use public funds for social welfare and aid and support of the needy;
- Contribute to pension and insurance for benefit of public employees;
- Make pledges with respect to bonds and indebtedness to meet public obligations;
- Return previously expropriated property or property purchased under threat of expropriation;
- Donate blighted property to a 501(c)(3) or (4) who agrees to renovate such property and maintain until sold;
- Share equipment with other public entities during a declared disaster.

Please be aware that failure to make an adequate effort to collect past due funds may be a violation of the prohibition of donating public funds. Additionally, there is an exception allowing donations of property between entities involved in public safety.

Permissible donations, agreements, or exchanges of service, including the use of public funds, may be accomplished through a cooperative endeavor agreement. Three requirements must be met for a cooperative endeavor agreement (sometimes called an intergovernmental agreement) to be valid:

- Expenditure must be for a public purpose that comports with the governmental purpose which the entity has a legal authority to pursue;
- Expenditure may not have the appearance of being gratuitous;
- Must provide evidence demonstrating that a public entity has demonstrable, objective, and reasonable expectation of receiving a benefit or value at least equivalent to the amount expended or transferred.

⁶³ Article 7, Section 14(A) of the Louisiana Constitution.

XXI. WEBSITES

As more public entities develop websites for their organizations, laws have evolved governing what must be posted on a public entity's website. The public has an expectation that websites provide accurate and up to date information, and if a board or district decides to operate a website, they should live up to the expectation. The Legislative Auditor has produced a guide summarizing statutes governing public websites⁶⁴, which boards should review regularly to ensure their website is in compliance with state law. The following is a non-exclusive list of items that should appear on a board or district's website:

- Louisiana Legislative Auditor's "Fraud, Waste, and Abuse" notice (a physical copy of this notice should also be placed at district facilities and/or where meetings are held)
- Meeting notices no later than 24 hours before the meeting (exclusive of weekends and holidays)
- Written minutes within 10 days of publishing in official journal or "within a reasonable time"
- Rolls forward and other Ad Valorem tax notices
- Certain public bid notices
- Collective bargaining agreements
- Board specific notices
- Public Records custodian and contact information for requests.

XXII. BEST PRACTICES

St. Tammany Parish Boards and Commissions should have a list of best practices, which should be reviewed yearly. The Legislative Auditor has an extensive list of best practices and forms that should be consulted yearly.⁶⁵ Some specific areas which should be addressed are

⁶⁴ [https://app.la.state.la.us/llala.nsf/372058C376F63B4286257F7700789FC6/\\$FILE/Website%20Postings.pdf](https://app.la.state.la.us/llala.nsf/372058C376F63B4286257F7700789FC6/$FILE/Website%20Postings.pdf)

⁶⁵ The Louisiana Legislative Auditor's Checklist of Best Practices in Government can be found at <https://www.la.la.gov/local-government-entities/best-practices/index.shtml> along with a number of best practice forms and resources

segregation of duties to prevent fraud, frequent reviewing of financial documents, and checks and balances to prevent theft and misuse of resources.

The following are subjects that should be covered by a board's best practices list:

- Written procedures
- Strategic plan for future operations
- Budgeting
- Financial statements
- Purchasing/Disbursements
- Contracting for services
- Credit cards
- Gifts, donations, and grants
- Travel
- Payroll and attendance records
- Bank reconciliation
- Investments
- Accounts Receivable
- Capital assets
- Special taxes
- Records
- Ethics
- Travel and transportation
- Traffic tickets and misdemeanor summons
- Internal audits
- Disaster recovery, business continuity
- Information technology and communications and computer use policies
- Fraud

XXIII. ADDITIONAL RESOURCES

Contact Information for St. Tammany Parish Government

Culture, Recreation, & Tourism	(985) 898-3011
Development – Permits	(985) 898-2574
Development – Planning	(985) 898-2529
Finance	(985) 898-2513
Grants	(985) 867-5095
Civil Division 22 nd JDC District Attorney (Legal)	(985) 898-3427
Risk Management	(985) 898-3427
Chief Administrative Office	(985) 898-2445
Parish Council	(985) 898-2591
President’s Office	(985) 898-2362
Procurement	(985) 898-2513
Public Information	(985) 898-5243
Public Works	(985) 898-2557
Technology	(985) 898-2448

Contact Information for Other Parish and Local Agencies

St. Tammany Parish Assessor	(985) 809-8180
St. Tammany Parish Sheriff	
• Covington Office	(985) 809-8200
• Slidell Administrative Building	(985) 726-8000
St. Tammany Parish Clerk of Court	(985) 809-8700
District Attorney for 22 nd JDC	(985) 809-8383
Slidell City Court Division	(985) 646-4110
City of Mandeville	(985) 626-3144
City of Covington	(985) 892-1811
City of Slidell	(985) 646-4332
Town of Abita Springs	(985) 892-0711

Town of Pearl River	(985) 863-5711
Town of Madisonville	(985) 845-7311
Village of Sun	(985) 866-5500
Village of Folsom	(985) 796-5607

Contact Information for State Agencies

Attorney General	(225) 326-6079
Secretary of State	(225) 922-2880
Department of Treasury	(225) 342-0010
Legislative Auditor	(225) 339-3800
Board of Ethics	(225) 219-5600
Division of Administration	(225) 342-7000
Homeland Security and Emergency Preparedness	(225) 925-7500
Office of Inspector General	(225) 342-4262
Department of Insurance	(225) 342-5900
Department of Culture, Recreation, and Tourism	(225) 342-8200
Department of Economic Development	(225) 342-3000
Workforce Commission	(225) 342-3111
State Bond Commission	(225) 342-0040
Parks and Recreation Commission	(225) 342-8186
Tax Commission	(225)925-7830

Online Resources

Please use these resources to find updated copies of guides and sample forms provided by other entities and referenced in this manual.

Louisiana Legislative Auditor

<https://www.la.la.gov/>

Louisiana Attorney General

<https://www.ag.state.la.us/>

Louisiana Ethics Administration

<http://www.ethics.la.gov/>

Louisiana Department of the Treasury

<http://www.treasury.state.la.us/default.aspx>

Louisiana Division of Administration

<http://www.doa.la.gov/Pages/default.aspx>

Grants

<http://www.grants.gov/>

Governor's Office of Homeland Security and Emergency Preparedness

<http://gohsep.la.gov>